109-363

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~248.~~ 377

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

MICHAEL RYAN.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF CALIFORNIA.

FILED OCTOBER 14, 1876.

SUPREME COURT OF THE UNITED STATES.

No. 248.

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1 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America, to the judges of the circuit court of the United States, for the district of California, greeting:

Because in the record and proceedings and also in the rendition of the judgment of a plea which is in the said circuit court, before you between the United States of America, plaintiff in error, and Michael Ryan, defendant in error, a manifest error hath happened, to the great damage of the said plaintiff in error, as by its complaint appears, and it being fit, that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf; you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States of America together with this writ, so that you have the same at the city of Washington, in the District of Columbia, on the second Monday of October next, in the said Supreme Court, to be there and then held, that the record and proceedings aforesaid be inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the law and custom of the United States should be done.

Witness the Hon. Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 29th day of September, in the year of our Lord one thousand eight hundred and seventy-six, and of the Independence of the United States the 101st.

The above writ of error is hereby allowed.

[SEAL.] LORENZO SAWYER,
U. S. Circuit Judge, 9th Circuit.

2 (Indorsed:) United States Supreme Court. The United States, pl'ff in error, vs. Michael Ryan, def't in error. Writ of error. Filed Sept. 29, 1876. L. S. B. Sawyer, clerk, by J. F. O'Beirne, dep. cl'k.

The answer of the judges of the circuit court of the United States for the district of California.

The record and all proceedings of the plaint whereof mention is within made, with all things touching the same, we certify under the seal of our said court to the Supreme Court of the United States of America, within mentioned, at the day and place within contained in a certain schedule to this writ annexed, as within we are commanded.

Attest, &c.:

L. S. B. SAWYER, *Clerk*,
By J. F. O'BEIRNE, *Dep. Clk.*

3 UNITED STATES OF AMERICA, *ss:*

To Michael Ryan, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States of America, to be held at the city of Washington, in the District of Columbia, on the second Monday of October, A. D. 1876, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the district of California, wherein the United States of America is plaintiff in error, and you are defendant

in error, to show cause, if any there be, why the judgment in the said writ of error mentioned, should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness, the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States of America, this 29th day of September, A. D. 1876, and of the Independence of the United States the 101st.

[SEAL.] LORENZO SAWYER,
U. S. Circuit Judge, 9th Circuit.

(Indorsed :) United States Supreme Court. United States vs. Michael Ryan. Citation. Filed 29 Sept., 1876. L. S. B. Sawyer, cl'k, by J. F. O'Beirne, dep. cl'k.

Service of a copy admitted 29th Sept., '76.
LLOYD & NEWLANDS,
Att'ys for Def't in Error.

4 *Information.*

In the circuit court of the United States, ninth circuit, district of California.

Be it remembered that on this 12th day of February, A. D. 1876, comes into court in his own proper person, Walter Van Dyke, esq., United States attorney for the aforesaid district of California, and in the name and on the behalf of the United States, gives the said court to understand and be informed, that on the 4th day of January, A. D. 1876, at the city and county of San Francisco, State of California, and within the district aforesaid, and within the jurisdiction of this court, Michael Ryan, then and there being, did then and there wilfully, knowingly, and unlawfully deny to a citizen of the United States the full and equal enjoyment of the advantages, accommodations, facilities, and privileges of a public theatre, such denial being for reasons by law not applicable to citizens of every race and color, to wit, the said Michael Ryan, on said day, at said city and county, did knowingly, wilfully, and unlawfully deny to George M. Tyler, a citizen of the United States, the full enjoyment of the accommodations, advantages, facilities, and privileges of Maguire's new theatre, situate on Bush st. between Montgomery and Kearney, being on the southerly side of said Bush st., in the city and county of San Francisco, State of California, aforesaid, the same
5 being a place of public amusement, as follows, to wit, that is to say, on the said 4th day of January, A. D. 1876, the said George M. Tyler did purchase a certain ticket of admission to said theatre of the ticket seller or authorized agent of said theatre for the sum of one dollar, which sum said Tyler duly paid to said agent, to wit, said ticket seller, and received as aforesaid from him, said ticket seller, a certain printed ticket of admission to the said theatre, and to the part thereof known and designated as the dress-circle or parquette, and orchestra seats, which said dress-circle otherwise known as the parquette and said orchestra seats did possess superior and better advantages, facilities, and privileges to any other portion of said theatre, which said ticket did purport to admit and did entitle said George M. Tyler to admission to the said portion of said theatre known and designated "the dress circle," otherwise called the "parquette," and to that portion of the said theatre known and designated the "orchestra" seats, and on said fourth day of January, A. D. one thousand eight hundred and seventy-six, in the evening of said day, and about or between the hours of seven and eight o'clock

p. m., while the doors of said theatre were open for the purpose of admitting the public to and about the time of the hour of the commencement of the performance in said theatre said George M. Tyler then and there being
6 a citizen of the United States, and under the jurisdiction thereof, did then and there present said ticket in his own person to said Michael Ryan, who was the doorkeeper to admit persons with tickets, and ticket-taker of said theatre, standing at the proper entrance thereof, and did, upon said ticket, ask and demand admission to said theatre and to the part and portion thereof designated as the dress-circle, otherwise called the parquette and the orchestra seats thereof; and thereupon said Michael Ryan, then and there being as aforesaid, did then and there wilfully, knowingly, wrongfully, and unfawfully, by force and arms, deny as George M. aforesaid, to said Tyler, admission to said theatre, or to any part thereof, and did then and there deny as aforesaid, to said George M. Tyler, the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of the said theatre, said denial and refusal not being for reasons applicable by law to citizens of every race and color, and regardless of any previous condition of servitude; that said refusal and denial as aforesaid was solely and entirely on account of and for the reason that said George M. Tyler was and is of the African or Nego race, being what is commonly known and called a colored man, and not a white man. That said George M. Tyler was then
7 and now is a person of the African or Negro race, being what is known and commonly called a colored man.

And so the said attorney of the United States, in the name and behalf of the United States, gives the said court to understand and be informed that said Michael Ryan did then and there as aforesaid, on said day, in the manner aforesaid, commit the crime of unlawfully denying and refusing to a citizen of the United States the full enjoyment of the accommodations, advantages, facilities, and privileges of a theatre (the same being a public place of amusement), for reason not by law applicable to citizens of every race and color, regardless of any condition of previous servitude, contrary to the form of the statutes of the United States of America in such case made and provided, and against the peace and dignity of the people thereof.

(S'g'd) WALTER VAN DYKE,
U. S. Att'y.

(Endorsed:) Presented and filed in open court this 12th day of February, 1876. L. S. B. Sawyer, clerk.

8 *Bench warrant.*

UNITED STATES OF AMERICA,
District of California, ss:

The President of the United States of America to the marshal of the United States of America for the district of California, and to his deputies, or any or either of them, greeting:

Whereas at a circuit court of the United States of America of the ninth circuit, in and for the district of California, begun and holden at the city of San Francisco, within and for the district aforesaid, on the 12th day of February, in the year of our Lord one thousand eight hundred and seventy-six, the United States attorney in and for the said district brought into the said court a true bill of information against Michael Ryan for the crime of denying to a citizen of the United States

the equal accommodations of a theatre, against the form of the statutes of the United States in such cases made and provided, as by the said information now remaining on file and of record in said court may more fully appear; to which information the said Michael Ryan has not yet appeared or pleaded:

Now, therefore, you are hereby commanded, in the name of the President of the United States of America, to apprehend the said Michael Ryan and him bring before the said court, at the court-room
9 thereof in the city of San Francisco, to answer the information aforesaid.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at the city of San Francisco, in said district, this 12th day of February, Anno Domini 1876.

Attest:

L. S. B. SAWYER, *Clerk.*
WALTER VAN DYKE,
U. S. Attorney.

(Endorsed:)

UNITED STATES OF AMERICA,
District of California:

MARSHAL'S OFFICE.

In obedience to the within warrant I have the body of the said Michael Ryan before the honorable the circuit court of the United States of the ninth circuit, in and for the district of California, this 28th day of Feb'y, A. D. 1876.

E. P. MARSELLUS,
U. S. Marshal,
By C. H. MEAD,
Deputy U. S. Marshal.

Filed February 28th, 1876.

L. S. B. SAWYER, *Clerk,*
By J. F. O'BEIRNE,
Deputy Clerk.

10 *Motion to dismiss information.*

In the circuit court of the United States, ninth circuit, district of California.

UNITED STATES
vs.
MICHAEL RYAN.

Now comes the defendant, Michael Ryan, and moves to dismiss the information filed by the district attorney in this case, upon the following grounds:

1st. Because there is no warrant or authority in law authorizing the district attorney to file said information.

2nd. Because the statute which it is alleged has been violated requires all criminal proceedings had or taken for violation thereof to be commenced by indictment.

Wherefore he prays to be hence dismissed without day.

MICHAEL RYAN,
By LLOYD & NEWLANDS,
His Att'ys.

(Endorsed:)

Service of the within & receipt of a copy admitted this day of Feb'y, 1876.

A. P. VAN DUZER,
Ass't U. S. Att'y.

Filed 15 February, 1876.

L. S. B. SAWYER,
Clerk.

11 *Demurrer.*

In the circuit court of the United States, ninth circuit, district of California.

THE UNITED STATES }
vs. }
MICHAEL RYAN. }

Now comes the defendant, Michael Ryan, in person and by counsel, and demurs to the information filed by the district attorney in this matter on the following grounds:

1st. Because said information does not state facts sufficient to constitute a public offense.

2nd. Because, if said information does state facts sufficient to constitute a public offense, it is not an offense over which this court has jurisdiction.

3rd. Because said information does not state facts sufficient to constitute an offense against the laws of the United States.

4th. Because the offense sought to be alleged and set forth in said information is not a crime or an offense under the laws of the United States.

Wherefore defendant prays to be hence dismissed without day.

LLOYD AND NEWLANDS,
For Defendant.

(Endorsed:)

Service of the within and receipt of a copy is hereby admitted this day of Feb'y, 1876.

12 A. P. VAN DUZER,
Ass't U. S. Att'y.

Filed 15 February, 1876.

L. S. B. SAWYER,
Clerk.

13 *Order of argument & submission of dem'r & motion.*

At a stated term, to wit, the February term, 1876, of the circuit court of the United States of America of the ninth judicial circuit, in and for the district of California, held at the court-room in the city of San Francisco, on Monday, the 28th day of February, in the year of our Lord one thousand eight hundred and seventy-six.

Present, honorable Lorenzo Sawyer, circuit judge; honorable Ogden Hoffman, district judge.

THE UNITED STATES OF AMERICA } Informed against for a violation
vs. } of the civil-rights bill.
MICHAEL RYAN. }

2 O'CLOCK P. M.

This cause coming on to be heard this day upon the demurrer to and